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PATENT -- NO FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In Re: Application of	)	
PETER NASH ET AL	)	
	)	
Serial No.: 10/038,260	)	
	)	
Filed: January 7, 2002	)	Board of Patent Appeals
	)	and Interferences
For: IMMUNOGEN ADHERENCE INHIBITOR	)	
AND METHOD OF MAKING AND	)	
USING SAME	)	
	)	
Case Docket No.: C150.12.3C	)	

**LETTER**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22131-1450

Sir:

Appellants' record of this Appeal is as follows.

1. Appellants filed a Notice of Appeal on June 9, 2004 from the Final Rejection dated February 13, 2004.
2. Appellants' Brief was filed on September 21, 2004.
3. An Examiner's Answer was filed on December 17, 2004.
4. Appellants' Reply to the Examiner's Answer was filed on February 14, 2005.
5. An Advisory Action was filed on May 6, 2005 stating that the reply was entered.
6. A Supplemental Examiner's Answer was filed on April 29, 2005.

The acknowledgement of receipt entry of the Reply to The Examiner's Answer is an indication that no further response by the Examiner is deemed necessary. 37 CFR 1.193(b) prohibits a Supplemental Examiner's Answer in the absence of a remand from the Board of Patent Appeals and Interferences for such purpose. MPEP 1208.3. This appeal has not been

remanded to the Examiner by the Board of Patent Appeals and Interferences. Accordingly, the Supplemental Examiner's Answer dated April 29, 2005 is prohibited as this appeal was not remanded to the Examiner. 37 CFR 1.193(b)(1).

Appellants request the Board of Patent Appeals and Interferences remove the Supplemental Examiner's Answer from this appeal and proceed with Appellants' Brief, the Examiner's Answer and Appellants' Reply to the Examiner's Answer.

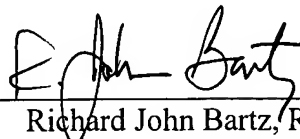
The Supplemental Examiner's Answer includes new grounds of rejection of Claims 1, 3 and 5 to 38. The Examiner has added the publication *Yokoyama et al* - Infection and Immunity 60(3): 998-1007, March 1992 to the rejection of these claims. The Examiner states on page 12 that *Yokoyama et al* teaches a method of producing a microbial adherence inhibitor such as IgY for administration of food animals such as piglets to inhibit the adherence of an immunogen such as *E. coli* in the intestinal tract of the animal. There is no teaching in *Yokoyama et al* of IgM and IgA immunoglobulins with IgY immunoglobulins binding to protein-wasting immunogens to inhibit the ability of protein-wasting immunogens to adhere to the intestinal tracts of animals and the binding process being assisted or helped by the IgM and IgA immunoglobulins.

The *Yokoyama et al* method will give a series of antibodies that if one follows will not lead to specific antibodies that protect but will lead to antibodies that cross-react to other bacteria, such as *E. coli*. The reference teaches away from Appellants' claimed invention.

Respectfully submitted,

PETER NASH ET AL

By



Richard John Bartz, Registration No. 40,500  
6750 France Avenue South, Suite 350  
Edina, MN 55435-1983  
(952) 920-3959

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

MARCH 3, 2006  
(Date of Deposit)

RICHARD JOHN BAETZ  
Name of applicant, assignee, or Registered Rep.

R. John Baetz  
Signature

MARCH 3, 2006  
Date of Signature